NORTH CAROLINA REPORTS

VOL. 193

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CASES ARGUED AND DETERMINED

IN THE

SUPREME COURT

OF

NORTH CAROLINA

Property of
WOMAN'S COLLEGE OF THE UNIVERSITY OF NORTH CAROLINA
Greensboro, N. C.
[v.193]

FALL TERM, 1926
SPRING TERM, 1927

REPORTED BY
ROBERT C. STRONG

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6 " "	"	51	"
7 " "	"	52	"
8 " "	"	53	"
1 " Eq.	"	54	"
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OF THE

SUPREME COURT OF NORTH CAROLINA

FALL TERM, 1926
SPRING TERM, 1927

CHIEF JUSTICE:

W. P. STACY.

ASSOCIATE JUSTICES:

W. J. ADAMS,
HERIOT CLARKSON,
GEORGE W. CONNOR,
WILLIS J. BROGDEN.

ATTORNEY-GENERAL:

DENNIS G. BRUMMITT.

ASSISTANT ATTORNEY-GENERALS:

FRANK NASH,
CHAS. ROSS,
OLIVER H. ALLEN.

SUPREME COURT REPORTER:

ROBERT C. STRONG.

CLERK OF THE SUPREME COURT:

EDWARD C. SEAWELL.

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108165

JUDGES

OF THE

SUPERIOR COURTS OF NORTH CAROLINA

EASTERN DIVISION

Name	*District*	*Address*
W. M. Bond	First	Edenton.
M. V. Barnhill	Second	Rocky Mount.
G. E. Midyette	Third	Jackson.
F. A. Daniels	Fourth	Goldsboro.
Romulus A. Nunn	Fifth	New Bern.
Henry A. Grady	Sixth	Clinton.
W. C. Harris	Seventh	Raleigh.
E. H. Cranmer	Eighth	Southport.
N. A. Sinclair	Ninth	Fayetteville.
W. A. Devin	Tenth	Oxford.

EMERGENCY JUDGES

Clayton Moore	Williamston.
N. A. Townsend	Dunn.

WESTERN DIVISION

Raymond G. Parker	Eleventh	Winston-Salem.
Thomas J. Shaw	Twelfth	Greensboro.
A. M. Stack	Thirteenth	Monroe.
W. F. Harding	Fourteenth	Charlotte.
John M. Oglesby	Fifteenth	Concord.
J. L. Webb	Sixteenth	Shelby.
T. B. Finley	Seventeenth	Wilkesboro.
Michael Schenck	Eighteenth	Hendersonville.
P. A. McElroy	Nineteenth	Marshall.
Walter E. Moore	Twentieth	Sylva.

EMERGENCY JUDGES

H. Hoyle Sink	Lexington.
Thomas C. Bowie	Jefferson.

SOLICITORS

EASTERN DIVISION

Name	*District*	*Address*
Walter L. Small	First	Elizabeth City.
Donnell Gillam	Second	Tarboro.
R. H. Parker	Third	Enfield.
Clawson L. Williams	Fourth	Sanford.
D. M. Clark	Fifth	Greenville.
James A. Powers	Sixth	Kinston.
L. S. Brassfield	Seventh	Raleigh.
Woodus Kellum	Eighth	Wilmington.
T. A. McNeill	Ninth	Lumberton.
W. B. Umstead	Tenth	Durham.

WESTERN DIVISION

S. Porter Graves	Eleventh	Mount Airy.
J. F. Spruill	Twelfth	Lexington.
F. D. Phillips	Thirteenth	Rockingham.
John G. Carpenter	Fourteenth	Gastonia.
Zeb. V. Long	Fifteenth	Statesville.
L. Spurgeon Spurling	Sixteenth	Lenoir.
Jno. R. Jones	Seventeenth	N. Wilkesboro.
J. W. Pless, Jr.	Eighteenth	Marion.
Robt. M. Wells	Nineteenth	Asheville.
Grover C. Davis	Twentieth	Waynesville.

LICENSED ATTORNEYS

SPRING TERM, 1927

List of applicants to whom license to practice law in North Carolina was granted by Supreme Court at Spring Term, 1927:

ABERNATHY, WILLIAM HARRISON.....Fort Lawn, S. C.
ALLEN, WILLIAM HENRY.....Washington, D. C.
ANDERSON, FRANKLIN VOORHEES.....Ellicott City, Md.
BLACKSHEAR, PAUL DAVID.....Wilson, N. C.
BLAYLOCK, SPENCER LORRAINE.....Greensboro, N. C.
BOND, WALTER EDGAR.....Willow Springs, N. C.
BOYER, WILLIAM HURD.....Winston-Salem, N. C.
BRADY, IVEY O'NEAL.....Benson, N. C.
BRITT, CASWELL PINKNEY.....Lumberton, N. C.
BRITT, GEORGE ROBERT.....Mt. Olive, N. C.
BRITT, HERBERT MARION.....Little Rock, S. C.
BROOKS, FREDERICK HOLLIDAY, JR.....Smithfield, N. C.
BROWN, JAMES LASALLE.....Washington, D. C.
BRUTON, THOMAS WADE.....Candor, N. C.
BRYSON, EDWIN CONSTANT.....Bryson City, N. C.
BUTLER, AMAN M.....Clinton, N. C.
CREWS, NATHANIEL SULLIVAN.....Walkertown, N. C.
CUMMINGS, THEODORE FRANKLIN.....Hickory, N. C.
DUNCAN, EDWARD ERNEST.....Beaufort, N. C.
FROOKS, EVERETT.....Durham, N. C.
FUSSELL, PRESTON RAY.....Rose Hill, N. C.
GATES, CASWELL JERRY.....Henderson, N. C.
GOODKOWITZ, ALI DAVID.....High Point, N. C.
GRIFFIN, CHARLES MILLIARD, JR.....Rocky Mount, N. C.
HAMMOND, WILLIAM HENRY.....Trenton, N. C.
HASTY, FRED HENDERSON.....Charlotte, N. C.
HICKS, BENJAMIN HORNER.....Henderson, N. C.
HORTON, JACK.....Kershaw, S. C.
JOHNSON, ALPHONZO GLENDON.....Varina, N. C.
JONES, BAXTER COLUMBUS.....Bryson City, N. C.
JONES, SAMUEL ALEXANDER.....Raleigh, N. C.
JONES, WILLIAM AVERY.....Winston-Salem, N. C.
KING, JAMES CLIFTON, JR.....Wilmington, N. C.
KING, THOMAS HENRY.....Washington, D. C.
KIRVEN, LAWRENCE ERASMUS.....Winston-Salem, N. C.
KUHNEL, GEORGE DANIEL.....Washington, D. C.
LEE, MARION G.....Four Oaks, N. C.
LEE, STRONNIE FURMAN.....Willow Springs, N. C.
LIVINGSTON, THEODORE BURROUGHS, JR.....Asheville, N. C.
LYNN, CLARENCE LEE.....East Durham, N. C.
MCGHEE, WILLIAM EDGAR.....Washington, D. C.
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MCQUEEN, MALCOLM M.....Fayetteville, N. C.
MARCUS, MORRIS.....Columbia, S. C.

MIDDLETON, ELLIS SPEAR.....Washington, D. C.
MONTAGUE, GEORGE ERASTUS.....Woodsdale, N. C.
MOODY, HOWARD WYATT.....Murphy, N. C.
MOORE, JACK ROSSER.....Asheville, N. C.
MURDOCK, WILLIAM HENRY.....Durham, N. C.
PATTERSON, JOHN EARLE.....Leaksville, N. C.
PEELE, HERBERT OLIVER.....Williamston, N. C.
PICKENS, RUPERT TARPLEY.....High Point, N. C.
RHOE, HENRY OWEN.....Wilmington, N. C.
RIERSON, JOHN SELBY.....Wilson, N. C.
SCHINDLER, JULIUS ELI.....Washington, D. C.
SHANNONHOUSE, JAMES MOORE.....Charlotte, N. C.
SHARPE, JOHN CLEVELAND.....Harmony, N. C.
SHEPHERD, JAMES EDWARD.....Raleigh, N. C.
SKINNER, HARRY ENNIS, JR.....Elizabeth City, N. C.
SPENCE, ELBERT RUDOLPH.....Elizabeth City, N. C.
WALKER, DOUGALD VERNON.....Maxton, N. C.
WALL, LONNIE LAFAYETTE.....Durham, N. C.
WALL, TURNER SAMUEL, JR.....Lexington, N. C.
WHITE, THOMAS JACKSON.....Chapel Hill, N. C.
WILLIAMS, SAMUEL LEONARD.....Kinston, N. C.
WINHOLTZ, ROY ABEDNEGO.....Washington, D. C.

License Granted to the following Comity Applicants:

BROWN, RAYMOND FASSETT (from New York).....Durham, N. C.
CURRY, THOMAS ALLEN (from Alabama).....Asheville, N. C.
KELLOGG, LINCOLN LEWIS (from New York).....Asheville, N. C.
LIPSCOMB, THOMAS WALKER (from Georgia).....Asheville, N. C.
MCINNES, JULIUS STEWARD (from South Carolina).....Raleigh, N. C.
MCCORMICK, CHARLES TILFORD (from Texas).....Chapel Hill, N. C.

CALENDAR OF COURTS

TO BE HELD IN

NORTH CAROLINA DURING THE FALL TERM OF 1927

SUPREME COURT

The Supreme Court meets in the city of Raleigh on the first Monday in February and the last Monday in August of every year. The examination of applicants for license to practice law, to be conducted in writing, takes place one week before the first Monday in each term.

The Judicial Districts will be called in the Supreme Court in the following order:

	Fall Term, 1927
First District	August 30
Second District	September 6
Third and Fourth Districts	September 13
Fifth District	September 20
Sixth District	September 27
Seventh District	October 4
Eighth and Ninth Districts	October 11
Tenth District	October 18
Eleventh District	October 25
Twelfth District	November 1
Thirteenth District	November 8
Fourteenth District	November 15
Fifteenth and Sixteenth Districts	November 22
Seventeenth and Eighteenth Districts	November 29
Nineteenth District	December 6
Twentieth District	December 13

SUPERIOR COURTS, FALL TERM, 1927

The parenthesis numerals following the date of a term indicate the number of weeks during which the term may hold.

In many instances the statutes apparently create conflicts in the terms of court.

THIS CALENDAR IS UNOFFICIAL

EASTERN DIVISION

FIRST JUDICIAL DISTRICT

FALL TERM, 1927—*Judge Midyette.*

Camden—Sept. 26.
Beaufort—July 25†; Oct. 3† (2); Nov. 21; Dec. 17†.
Gates—Aug. 1; Dec. 12.
Tyrrell—Nov. 28.
Currituck—Sept. 5.
Chowan—Sept. 12; Dec. 5.
Pasquotank—Sept. 19†; Nov. 7; Nov. 14†.
Hyde—Oct. 17.
Dare—Oct. 24.
Perquimans—Oct. 31.

SECOND JUDICIAL DISTRICT

FALL TERM, 1927—*Judge Daniels.*

Washington—July 11; Oct. 24.
Nash—Aug. 22*; Oct. 10†; Nov. 28*; Dec. 5†.
Wilson—Sept. 5; Oct. 3†; Oct. 31† (2); Dec. 19.
Edgecombe—Sept. 12; Oct. 17†; Nov. 14† (2).
Martin—Sept. 19 (2); Dec. 12.

THIRD JUDICIAL DISTRICT

FALL TERM, 1927—*Judge Nunn.*

Northampton—Aug. 1†; Oct. 31 (2).
Hertford—July 25*; Oct. 17 (2); Nov. 28† A (2); Dec. 12† (2).
Halifax—Aug. 15 (2); Oct. 3† A (2); Nov. 28 (2).
Bertie—Aug. 29 (2); Sept. 12†; Nov. 14 (2).
Warren—Sept. 19 (2).
Vance—Oct. 3*; Oct. 10†.

FOURTH JUDICIAL DISTRICT

FALL TERM, 1927—*Judge Grady.*

Lee—July 18 (2); Sept. 19†; Oct. 31; Nov. 7†.
Chatham—Aug. 1† (2); Oct. 24*.
Johnston—Aug. 15*; Sept. 26† (2); Dec. 12 (2).
Wayne—Aug. 22†; Aug. 29; Oct. 10† (2); Nov. 28†; Dec. 5.
Harnett—Sept. 5; Oct. 3† A (2); Nov. 14† (2).

FIFTH JUDICIAL DISTRICT

FALL TERM, 1927—*Judge Harris.*

Pitt—Aug. 22†; Aug. 29; Sept. 12†; Sept. 26†; Oct. 24†; Oct. 31.
Craven—Sept. 5*; Oct. 3† (2); Nov. 21† (2).
Carteret—Oct. 17; Dec. 5†.
Pamlico—Nov. 7 (2).
Jones—Sept. 19.
Greene—Dec. 12 (2).

SIXTH JUDICIAL DISTRICT

FALL TERM, 1927—*Judge Cranmer.*

Onslow—July 18†; Oct. 10; Oct. 31† A; Nov. 21† (2).
Duplin—July 11*; Aug. 29† (2); Oct. 3*; Dec. 5; Dec. 12†.
Sampson—Aug. 8 (2); Sept. 12† (2); Oct. 24* (2); Dec. 5† A.
Lenoir—Aug. 22*; Oct. 17; Nov. 7† (2); Dec. 12* A.

SEVENTH JUDICIAL DISTRICT

FALL TERM, 1927—*Judge Sinclair.*

Wake—July 11*; Sept. 12*; Sept. 19 (2); Oct. 3†; Oct. 10*; Oct. 24† (2); Nov. 7*; Nov. 28† (2); Dec. 12* (2).
Franklin—Aug. 29† (2); Oct. 17*; Nov. 14† (2).

EIGHTH JUDICIAL DISTRICT

FALL TERM, 1927—*Judge Devin.*

New Hanover—July 25*; Sept. 12*; Sept. 19†; Oct. 17† (2); Nov. 14*; Dec. 5† (2).
Pender—Sept. 26; Oct. 31† (2).
Columbus—Aug. 22 (2); Nov. 21† (2).
Brunswick—Sept. 5†; Oct. 3.

NINTH JUDICIAL DISTRICT

FALL TERM, 1927—*Judge Bond.*

Robeson—July 11* (2); Sept. 5† (2); Oct. 3 (2); Nov. 7*; Dec. 5† (2).
Bladen—Aug. 8†; Oct. 17.
Hoke—Aug. 22; Nov. 14.
Cumberland—Aug. 29*; Sept. 19† (2); Oct. 24† (2); Nov. 21*.

TENTH JUDICIAL DISTRICT

FALL TERM, 1927—*Judge Barnhill.*

Alamance—Aug. 15*; Sept. 5† (2); Nov. 28*.
Durham—July 18*; Sept. 19† (2); Oct. 10*; Oct. 31† (2); Dec. 5*.
Granville—July 25; Oct. 24†; Nov. 14 (2).
Orange—Aug. 22 (2); Oct. 3†; Dec. 12.
Person—Aug. 8; Oct. 17.

WESTERN DIVISION

ELEVENTH JUDICIAL DISTRICT

FALL TERM, 1927—*Judge Stack.*

Ashe—July 11† (2); Oct. 17*.
Forsyth—July 25* (2); Sept. 12† (2); Oct. 3 (2); Nov. 7† (2); Dec. 5† A; Dec. 12*.
Rockingham—Aug. 8* (2); Nov. 21† (2).
Caswell—Aug. 22; Oct. 17† A; Dec. 5.
Alleghany—Sept. 26.
Surry—Aug. 29 (2); Oct. 24 (2).

TWELFTH JUDICIAL DISTRICT

FALL TERM, 1927—*Judge Harding.*

Davidson—July 18† (2); Aug. 22*; Sept. 12†; Nov. 21 (2).
Guilford—July 11* A; Aug. 1*; Aug. 8† (2); Aug. 29† (2); Sept. 19* (2); Oct. 3† (2); Oct. 24* A; Oct. 31† (2); Nov. 14*; Nov. 21† A (2); Dec. 5† (2); Dec. 19*.
Stokes—July 11†; Oct. 17*; Oct. 24†.

THIRTEENTH JUDICIAL DISTRICT

FALL TERM, 1927—*Judge Oglesby.*

Stanly—July 11; Oct. 10†; Nov. 21.
Richmond—July 18†; July 26*; Sept. 5†; Oct. 3*; Nov. 7†.
Union—Aug. 1*; Aug. 22†(2); Oct. 17; Oct. 24†.
Anson—Sept. 12*; Sept. 26†; Nov. 14†.
Moore—Aug. 15*; Sept. 19†; Dec. 12†.
Scotland—Oct. 31†; Nov. 28 (2).

FOURTEENTH JUDICIAL DISTRICT

FALL TERM, 1927—*Judge Webb.*

Mecklenburg—July 11* (2); Aug. 29*; Sept. 5† (2); Oct. 3*; Oct. 10† (2); Oct. 31† (2); Nov. 14*; Nov. 21† (2).
Gaston—Aug. 15†; Aug. 22*; Sept. 19† (2); Oct. 24*; Dec. 5† (2).

FIFTEENTH JUDICIAL DISTRICT

FALL TERM, 1927—*Judge Finley.*

Montgomery—July 11; Sept. 26†; Oct. 3; Oct. 31†.
Randolph—July 18† (2); Sept. 5*; Oct. 10†; Dec. 5 (2).
Iredell—Aug. 1 (2); Nov. 7 (2).
Cabarrus—Aug. 15 (3); Oct. 17 (2).
Rowan—Sept. 12 (2); Oct. 10†; Nov. 21 (2).

SIXTEENTH JUDICIAL DISTRICT

FALL TERM, 1927—*Judge Schenck.*

Catawba—July 4 (2); Sept. 5† (2); Nov. 14*; Dec. 5† A.
Lincoln—July 18; Oct. 17; Oct. 24†.
Cleveland—July 25 (2); Oct. 31 (2).
Burke—Aug. 8 (2); Sept. 26† (3); Dec. 12* (2).
Caldwell—Aug. 22 (2); Nov. 28 (2).

SEVENTEENTH JUDICIAL DISTRICT

FALL TERM, 1927—*Judge McElroy.*

Alexander—Sept. 19 (2).
Yadkin—Aug. 22*; Dec. 12† (2).
Wilkes—Aug. 8 (2); Oct. 3† (2).
Davie—Aug. 29; Dec. 5†.
Watauga—Sept. 5 (2).
Mitchell—July 25†; Nov. 14 (2).
Avery—July 4† (3); Oct. 17 (2).

EIGHTEENTH JUDICIAL DISTRICT

FALL TERM, 1927—*Judge Moore.*

Transylvania—Aug. 1 (2); Dec. 5 (2).
Henderson—Oct. 10 (2); Nov. 21† (2).
Rutherford—Aug. 29† (2); Nov. 7 (2).
McDowell—July 11† (3); Sept. 12 (2).
Yancey—July 4†; Oct. 24 (2).
Polk—Sept. 26 (2).

NINETEENTH JUDICIAL DISTRICT

FALL TERM, 1927—*Judge Parker.*

Buncombe—July 11† (2); July 25; Aug. 1† (2); Aug. 15†; Sept. 5† (2); Sept. 19; Oct. 3† (2); Oct. 17; Nov. 7† (2); Nov. 21; Dec. 5† (2); Dec. 19.
Madison—Aug. 22; Sept. 26; Oct. 24; Nov. 28.

TWENTIETH JUDICIAL DISTRICT

FALL TERM, 1927—*Judge Shaw.*

Haywood—July 11 (2); Sept. 19† (2); Nov. 28 (2).
Cherokee—Aug. 8 (2); Nov. 7 (2).
Jackson—Oct. 10 (2).
Swain—July 25 (2); Oct. 24 (2).
Graham—Sept. 5 (2).
Clay—Sept. 26† A (2).
Macon—Aug. 22 (2); Nov. 21.

*For criminal cases only.
†For civil cases only.
‡For jail and civil cases.
A Special Judge to be assigned.

UNITED STATES COURTS FOR NORTH CAROLINA

DISTRICT COURTS

Eastern District—Isaac M. Meekins, *Judge*, Elizabeth City.
Middle District—Johnson J. Hayes, *Judge*, Wilkesboro.
Western District—James E. Boyd, *Judge*, Greensboro.
Western District—Edwin Yates Webb, *Judge*, Shelby.

EASTERN DISTRICT

Terms—District courts are held at the time and place as follows:

Raleigh, fourth Monday after fourth Monday in April and October, and a two weeks civil term beginning on the second Monday in March. S. A. Ashe, Clerk.

Elizabeth City, second Monday in April and October. J. P. Thompson, Deputy Clerk, Elizabeth City.

Washington, third Monday in April and October. Arthur Mayo, Deputy Clerk, Washington.

New Bern, fourth Monday in April and October. George Green, Deputy Clerk, New Bern.

Wilmington, second Monday after the fourth Monday in April and October. H. H. Ford, Deputy Clerk, Wilmington.

Fayetteville, on the fourth Monday in March and September. S. A. Ashe, Clerk, Raleigh.

Wilson, first Monday in April and October. S. A. Ashe, Clerk, Raleigh.

OFFICERS

Irvin B. Tucker, United States District Attorney, Whiteville.
J. D. Parker, Assistant United States District Attorney, Smithfield.
Willis G. Briggs, Assistant United States District Attorney, Raleigh.
R. W. Ward, United States Marshal, Raleigh.
S. A. Ashe, Clerk United States District Court, Raleigh.

MIDDLE DISTRICT

Terms—District courts are held at the time and places as follows:

Greensboro, first Monday in June and December. R. L. Blaylock, Clerk; Myrtle Dwiggins, Chief Deputy; Della Butt, Deputy.

Rockingham, first Monday in March and September. R. L. Blaylock, Clerk, Greensboro.

Salisbury, third Monday in April and October. R. L. Blaylock, Clerk, Greensboro.

Winston-Salem, first Monday in May and November. R. L. Blaylock, Clerk, Greensboro.

Wilkesboro, third Monday in May and November. Milton McNeill, Deputy Clerk.

OFFICERS

Frank A. Linney, United States District Attorney, Winston-Salem.
R. G. Bingham, Assistant United States Attorney, Winston-Salem.
C. G. Bryant, United States Marshal, Greensboro.
R. L. Blaylock, Clerk United States District Court, Greensboro.

WESTERN DISTRICT

Terms—District courts are held at the time and place as follows:

Asheville, second Monday in May and November. J. Y. Jordan, Clerk; Oscar L. McLurd, Deputy Clerk.

Charlotte, first Monday in April and October. E. S. Williams, Deputy Clerk.

Statesville, fourth Monday in April and October. Sarah Leinster, Deputy Clerk.

Shelby, fourth Monday in September and third Monday in March. E. S. Williams, Deputy Clerk, Charlotte.

OFFICERS

Thomas J. Harkins, United States Attorney, Asheville.
Frank C. Patton, Assistant United States Attorney, Asheville.
Kenneth J. Kindley, Assistant United States Attorney, Asheville.
Brownlow Jackson, United States Marshal, Asheville.
J. Y. Jordan, Clerk United States District Court, Asheville.

DISTRICT COURTS

Western District—Edwin Yates Webb, Judge, Shelby.

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